

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

No. CR-01-0344 EMC-20

Plaintiff,

[No. C-07-1844 EMC]

v.

KIM ELLIS,

**ORDER RE CERTIFICATE OF
APPEALABILITY**

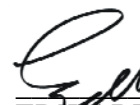
Defendant.

(Docket No. 40)

On January 24, 2012, the Court issued an order denying Kim Ellis's motion to reopen his § 2255 habeas case. In the order, the Court did not address whether or not a certificate of appealability should issue. *See* Section 2255 Case Rule 11 (providing that "[t]he district court must issue or deny a certificate of appealability when it enters a final order adverse to the applicant"). The Court hereby declines to issue a certificate of appealability. *See* 28 U.S.C. § 2253(c). This is not a case in which "reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). Nor is this a case where "jurists of reason would find it debatable whether the district court was correct in its procedural ruling." *Id.*

IT IS SO ORDERED.

Dated: March 12, 2012


EDWARD M. CHEN
United States District Judge